



Najir Tajuddin Jamadar V/s. Nurmohammad Chitu Jamadar.

Read :

1. Report Exh.No.63 submitted by Mr.S.R.Sankpal, Asstt. Superintendent.
2. Order Dtd.03/01/2020 passed below Exh.No.1.

Reg.Dkst. filed on the strength of Judgment and Decree passed in R.C.S.No.330/1993. The Court Commissioner was appointed to execute the sale-deed. From the report Exh.No.63 it appears that the Sub-Registrar refused to register the sale-deed, citing the reason – thereby, it would creates fragment.

2. Sec.9 of the Maha.Prevention of Fragmentation and Consolidation of Holdings Act, 1947 provides penalty for transfer or partition contrary to provisions of Act. Regard must be had that the Executing Court cannot go beyond the Decree. The Decree under execution is intact. Being aggrieved or dis-satisfied with said Decree nobody has taken an exception. The D.H. is ready to get the sale-deed executed, keeping open all legal points. He undertakes that in future if any dispute arose, the D.H. would be bound by the decision as taken by the Hon'ble District Collector.

3. Sec.71 provides reasons for refusal to be recorded by the Sub-Registrar in Book No.2, and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and

unnecessary delay, give him a copy of the reasons so recorded. Sec/s.23, 24, 25, 26, 72, 75 and 77 provides : That it is presented after the prescribed time. Sections 32, 33, 40 and 43: That it is presented by a person who has no right to present it. There are so many grounds on which property registration application can be rejected like – **(a)** if all the documents are not in place **(b)** If some documents are missing. **(c)** If there are mistakes in draft. **(d)** If there are factual anomalies. **(e)** If there is overwriting anywhere in the deed. **(f)** If the property does not fall in the sub-registrar's jurisdiction. **(g)** If the seller is a minor or not of sound mind. **(h)** If the identity of the seller cannot be confirmed. **(i)** If there is a mismatch between the information provided in the original documents and the supporting papers. **(j)** If a court has put a stay order on the deed. **(k)** If the amount mentioned in the deed is lower than the circle rate. **(l)** If the identity of the witnesses is dubious. (List is not exhaustive).

4. From the report of the Court Commissioner, it appears that without recording any reason the Sub-Registrar has flatly refused to register the document. Hence, the order:-

Order

1. Writ be re-issued.
2. Terms and conditions as imposed earlier vide Order Dtd.29/12/2014 shall to act as it is.
3. Additional Conditions
 - (i)** Asstt.Suptd., Jt.Civil Court, Jr.Divn., Ichalkaranji, Tal. Hatkanangale, Dist.Kolhapur [as per rotation] is hereby appointed as a Court Commissioner for execution of the sale deed for and on behalf of the JD, in the wake of decree passed in RCS No.330/1993. He shall execute

the sale deed after following all the necessary legal requirement.

(ii) The DH to produce - Instrument of Conveyance a/with documentation before the Asstt. Supdt.

(iii) The Asstt. Supdt. to go through it, ask the DH to submit documents, if any.

(iv) If registering officer, while registering instrument noticed any infirmity communicate the same to the DH; then DH shall rectify the same.

(v) no room of doubt that, the duty on the instrument is to be paid at the time of execution.

(vi) Registering Authority to examine the instrument for the purpose of correctness of the market value of the property and after examination if he finds that the market value was not truly set forth, he may determine the market value and duty payable thereon.

(vii) Registering Authority get the compliance of legal requirement from the Court Commissioner and the DH.

(viii) The DH shall deposit bhatta equivalent to one day salary of Asstt. Supdt. within 10 days from today.

(ix) The concern clerk to issue Writ, accordingly.

(Ganesh A. Ghule)
3rd Jt. Civil Judge, Jr.Divn.,
Ichalkaranji. Dist.Kolhapur.
J.O.Code : 2594

Date : 02/05/2024.